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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Methodology For Determining Universal Service Support	)	CC Docket Nos. 96-45 and 97-160
	)	

Comments of John Staurulakis, Inc.

In response to the April 15, 1998, Public Notice, DA-98-715, related to the request of the Common Carrier Bureau seeking comments on proposals to revise the methodology for determining Universal Service support

John Staurulakis, Inc.

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May 15, 1998

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Table of Contents

Summary

JSI remains concerned about the FCC's proposed four-step process to determine appropriate levels of universal service support applicable to non-rural carriers. Specifically, JSI believes the FCC's reliance on a 25 percent federal share and exclusion of intrastate revenues from the assessment base will undermine the universal service principles established by Congress.

Alternative proposals submitted in this proceeding do not resolve the flaws in the Commission's proposals. In particular, the Ad Hoc Work Group's proposed solutions targeted at a jurisdictional fix of the plan or proposing a least-cost funding solution do not get at the heart of the issue; *i.e.,* establishing "specific, predictable, and sufficient" support to preserve and advance universal service, allow for the maintenance of quality services at reasonable rates, and ensure reasonably comparable services – urban and rural – at reasonably comparable rates. Rather, JSI offers four principles that afford the FCC the opportunity to promote universal service in a manner consistent in the federal statute.

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In the Matter of	)	
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Methodology For Determining Universal Service Support	))	CC Docket Nos. 96-45 and 97-160 (DA 98-715)

COMMENTS OF JOHN STAURULAKIS, INC.

John Staurulakis, Inc. (JSI) hereby files these comments in response to the April 15, 1998, Public Notice, DA 98-715 (Public Notice), related to the request of the Common Carrier Bureau (Bureau) seeking comments on proposals to revise the methodology for determining Universal Service support.

JSI is a consulting firm specializing in financial and regulatory services to more than two hundred Incumbent Local Exchange Carriers (ILECs) throughout the United States. JSI assists these ILECs in the preparation and submission of jurisdictional cost studies and Universal Service Fund (USF) data to the National Exchange Carrier Association (NECA), and routinely prepares and files tariffs with the Commission on behalf of a number of these ILECs. Since the Public Notice seeks comments on issues affecting our clients in matters of cost recovery and assessments related to the universal service programs initiated by the Federal Communications Commission (FCC or Commission), JSI is an interested party in this proceeding.[1]

[1] While JSI primarily represents rural telephone companies and the universal service support program being considered in this proceeding will initially be directed toward non-rural telephone companies only, JSI is concerned that the precedent established for non-rural telephone companies beginning January 1, 1999, will ultimately affect rural companies as well. See May 7,1997, *Report and Order on the Federal-State Joint Board on Universal Service*, CC Docket 96-45 (para. 203-204). Further, JSI notes that the "Ad Hoc Working Group" proposal recommends that rural companies be included in this proceeding and have their universal service support be altered concurrent with the non-rural telephone companies. Thus, JSI is a keenly interested party in this proceeding.

Introduction

The FCC's April 15, 1998, Public Notice requested comments related to proposals to modify the Commission's four-step methodology for determining the appropriate level of universal service support that non-rural carriers will receive beginning January 1, 1999.[2]

JSI has expressed genuine concern that the FCC's four-step methodology for determining the appropriate level of universal service support applicable to non-rural carriers will, in fact, undermine several of the Universal Service Principles (Principles) specifically set forth by Congress to guide the Joint Board and the FCC in setting policies to preserve and advance universal service.[3] These Principles are as follows:

> *QUALITY AND RATES- Quality services should be available at just, reasonable, and affordable rates.*
>
> *ACCESS TO ADVANCED SERVICES- Access to advanced telecommunications and information services should be provided in all regions of the Nation.*
>
> *ACCESS IN RURAL AND HIGH COST AREAS- Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.*
>
> *EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS- All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.*
>
> *SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS- There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.*
>
> *ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES- Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described*

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[2] The FCC proposed a four-step methodology for determining high-cost universal service support levels consisting of: (1) the per line forward looking economic cost of providing universal service; (2) less a nationwide average per line revenue benchmark; (3) multiplied by a federal support factor of 25 percent; and (4) multiplied by eligible universal service loops.

[3] See Telecommunications Act of 1996 Section 254(b).

in subsection (h)

ADDITIONAL PRINCIPLES- Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.

In its Comments of April 27, 1998, JSI stated its conviction that the Commission's four-step methodology must be modified if universal service is to be preserved and advanced. It also stated its belief that to avoid the potential negative consequences currently envisioned, the Commission should be guided by the following four principles in revising its universal service support programs:

- Include all retail telecommunications revenues in the assessment base - international, interstate, and intrastate;
- Authorize the Universal Service Administrative Company (USAC) to collect, administer, audit, and distribute all funds based on a formula that determines the cost of supported services less the nationwide benchmark revenue, without regard to jurisdiction. This authorization would begin January 1, 1999 - or whatever date the FCC deems appropriate for those LECs eligible to receive high-cost universal service support funding on the basis of forward-looking economic cost;
- Allow the majority of the financial benefit of universal service support to be used by states to ensure that intrastate services supported by the federal program are maintained at a reasonably comparable rate level, nationwide;
- Rely on state regulatory authorities to see that funds received from the federal program are used to promote and advance universal service.

In order to satisfy these principles, the FCC need only modify its "four-step" proposed methodology by eliminating step 3, the application of the federal support factor of 25 percent, and by including all retail telecommunications revenues – international, interstate, and intrastate – in the basis of the assessment.

Other interested parties also submitted alternative proposals, or updates to alternative proposals already on record in this proceeding. These comments are directed toward certain specific alternative proposals being considered by the FCC in this phase. JSI is concerned that, unwittingly or not, other parties' alternative proposals could also undermine the Principles. These specific concerns bring into question whether or not such proposals will, in fact, provide sufficient and predictable support to advance and preserve universal service, allow for the maintenance of quality services at reasonable rates, and ensure reasonably comparable services – urban and rural – at reasonably comparable rates.

A Unified Federal USF

Some parties in this proceeding suggest that legal action would be taken against the FCC if attempts were taken to develop a unified, 100 percent federal universal service program by assessing interstate and intrastate telecommunications revenues.[4] This argument about jurisdiction is incongruous with the experience of the current universal service program established in 1983 and effective beginning in 1985.[5] JSI is unaware of any complaints or suits being brought over the past 13 years because the existing universal service support program somehow takes away from the primary responsibilities and duties of state regulators; quite the contrary, states have been the direct beneficiary of this federal program and have been free to use their scarce resources to promote their specific goals in harmony with the existing federal universal service program.

Recently in its Report to Congress, the FCC affirmed its "authority to assess universal service contributions on both the interstate and intrastate revenues of telecommunications

[4] The Ad Hoc Working Group proposal (p. 35) states that the Fifth Circuit of the U. S. Court of Appeals has litigation before it regarding this issue.

[5] Current assessments to the federal universal service program are implicit within the fabric of cost recovery for LECs and do not follow a specific jurisdictional boundary.

providers." (FCC 98-67 Report to Congress, paragraph 18). Given the precedent of a federal universal service program for the past 13 years, JSI considers the current uproar by state advocates disingenuous. The only reason for the current dispute over 75:25 is because of an extended feud over jurisdiction originating in the Local Competition Order (FCC 96-325). (See JSI January 26, 1998 comments in response to the DA98-2 Public Notice in CC Docket 96-45 Report to Congress for a complete discussion of the political aspects of the 75:25 decision by the FCC.) Attempts to resolve this feud have culminated in this proceeding, which has generated a multitude of proposals seeking to "fix" a jurisdiction problem that can be best resolved by the FCC assuming 100 percent jurisdiction over the federally mandated universal service program.

The Ad HOC Working Group Proposal

One suggested "fix" to the jurisdiction problem is proposed by the Ad Hoc Working Group, authorized by NARUC. This proposal has received widespread attention in recent months. We applaud the efforts and dedication of the initial advocates of the proposal. However, JSI has serious reservations regarding the Ad Hoc Working Group proposal. As we have watched the proposal evolve, we believe that in its intent to placate low-cost state advocates, the Ad Hoc Working group has replaced the "sufficiency" universal service principle with a principle of minimizing the fund at all costs.[6] This is evident in its adoption of the Hatfield/HAI 5.0 model.[7] Prior to the most recent drafts, the Ad Hoc Working Group had used a blended forward-looking economic cost based upon the BCPM model and the Hatfield model.

Rather than highlight the deficiencies evident in both models, we simply point out that it appears that the Ad Hoc Working Group adopted the Hatfield model in order to minimize the total support and, thereby, appease low-cost state advocates. JSI does not oppose the adoption of the lowest cost alternative, so long as it satisfies the objectives of Congress as embodied in the Principles. However, JSI is concerned that the sufficiency principle found in Section 254 of the Act

[6] See Section 254(b)(5) of the Act.

[7] Hatfield/HAI is the proxy model originally advocated by AT&T and MCI. (See Letter from Richard N. Clarke, AT&T, to Magalie Roman Salas, FCC, dated December 11, 1997.) Versions of HAI filed before February 3, 1998, were known as the Hatfield Model.

is placed in jeopardy by the Ad Hoc proposal.

Moreover, the Ad Hoc Working Group proposal is at best a collection of assorted methodologies in an attempt to again minimize the size of the universal service fund. Because the Ad Hoc proposal adopts both an embedded and a forward-looking economic cost methodology, whichever is smaller, it cannot demonstrate the sufficiency of the fund to support the goals of Congress. Finally, the Ad Hoc Group proposal is an elaborate attempt, relying on seemingly Byzantine procedures and hold-harmless provisions, to fix the flawed FCC proposal of a federal and state universal service program. The FCC can remedy this flaw by assuming 100 percent of the federal universal service program and ensure that there are specific, predictable, and sufficient mechanisms for all states.

JSI notes that the Ad Hoc Working Group's proposal recommends that rural companies be included in this proceeding and have their universal service support altered concurrent with the non-rural telephone companies.[8] It appears that the Ad Hoc Working Group is the only party which seeks to remove the provisions in the FCC Universal Service Order regarding the unique treatment to be afforded rural local exchange carriers. JSI believes that Congress and, in turn, the FCC, for good reason, inserted provisions in the Act and proposed rules that are intended to protect the interest of users of telecommunications services served by rural telephone companies. The attempt to void these provisions not only violates the intent of Congress but may jeopardize the ability of rural telephone companies to preserve and advance universal service. Even if the unified treatment of rural and non-rural companies could be justified, we are not convinced that the hold-harmless mechanisms advocated in the proposal are equivalent to the existing programs supporting rural LECs for the indefinite future.

Finally, the small-for-smallness-sake bias of the Ad Hoc proposal is also evident in the proposal's omission of long term support (LTS). By neglecting the LTS support mechanism, the Ad Hoc proposal has reduced the size of its fund by one-half billion dollars (For 1998, LTS is

[8] Ad Hoc proposal, at page 16.

$471,126,000). Such an omission raises questions about the level of interstate access-charge rates rural telephone companies will be required to charge to recover interstate revenue requirements. JSI questions the Ad Hoc Group's motive for neglecting a significant implicit universal service support mechanism.[9] We support the FCC in its determination that rural LECs should be set aside for the current discussion. Rural LEC support is scheduled to be evaluated in the future by the Rural Task Force and the FCC.

Benchmark Revenue

An integral component of the FCC's four-step methodology for determining the appropriate level of universal service support is the development of the revenue benchmark based on the nationwide average revenue per line. The FCC has acknowledged that the current benchmark proposal of $31-residential and $51-business needs to be revisited.[10] While we note that a great deal of attention has been devoted to developing the forward-looking economic cost proxy, we are unaware of any current effort to update the information used as a basis for the national benchmark.

Conclusion

JSI reiterates its position that the FCC should amend its four-step methodology based upon the following four principles:

- Include all retail telecommunications revenues in the assessment base: international, interstate, and intrastate;
- Authorize the Universal Service Administrative Company (USAC) to collect, administer, audit, and distribute all funds based on a formula that determines the cost of supported services less the nationwide benchmark revenue, without regard to jurisdiction. This authorization would begin January 1, 1999 - or whatever date the FCC deems appropriate for those LECs eligible to receive high-cost universal service support funding on the basis of forward-looking economic cost;

[9] There is a question about whether LTS will be included in an explicit federal universal service program; however, the Ad Hoc proposal does not even acknowledge the LTS as a support mechanism. (See p. 2 of the proposal for a discussion of existing support mechanisms.

[10] FCC Universal Service Order 97-246, May 8, 1997, paragraph 267.

- Allow the majority of the financial benefit of universal service support to be used by states to ensure that intrastate services supported by the federal program are maintained at a reasonably comparable rate level, nationwide;

- Rely on state regulatory authorities to see that funds received from the federal program are used to promote and advance universal service.

By following these principles and modifying its four-step methodology, by eliminating step 3, the application of the federal support factor of 25 percent, and by including all retail telecommunications revenues – international, interstate, and intrastate – in the basis of the assessment, the FCC would promote universal service in a manner consistent with the federal mandate.

- Allow the majority of the financial benefit of universal service support to be used by states to ensure that intrastate services supported by the federal program are maintained at a reasonably comparable rate level, nationwide;
- Rely on state regulatory authorities to see that funds received from the federal program are used to promote and advance universal service.

By following these principles and modifying its four-step methodology, by eliminating step 3, the application of the federal support factor of 25 percent, and by including all retail telecommunications revenues – international, interstate, and intrastate – in the basis of the assessment, the FCC would promote universal service in a manner consistent with the federal mandate.

Respectfully submitted,

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By: ______________________

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Date: May 15, 1998

Certificate of Service

I, Kim Johnson, do hereby certify that on this 15th day of May, 1998, a copy of the foregoing "Comments of John Staurulakis, Inc.," were sent via United States mail, first class postage prepaid, to the individuals listed on the attached Service List (Appendix A).

Kim Johnson

Kim Johnson

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